

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of) MM Docket No. 95-49
)
Amendment of Section 73.202(b))
Table of Allotments) RM-
FM Broadcast Stations)
Llano and Marble Falls, Texas)

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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REPLY COMMENTS

On September 23, 1996, Comments and a Counterproposal were filed in this proceeding by Roy E. Henderson jointly with Tichenor License Corporation (the "Hen-Tic" Counterproposal). Comments were also filed at that same time by Maxagrid Broadcasting Corporation ("Maxagrid") reaffirming Maxagrid's request as described in the Further Notice of Proposed Rulemaking (DA 95-884) that Channel 242A be allotted to Llano, Texas. Roy E. Henderson ("Henderson"), by his counsel, herewith submits his Reply Comments in reply to the Comments of Maxagrid.

As noted in the original Notice of Proposed Rulemaking and in the Further Notice, the complete proposal of Maxagrid is to delete sole transmission service Channel 284C3 from Llano, Texas, (population 2,962) and to reallocate the Channel as 285C3 as a first transmission service to Marble Falls, Texas, (population 4,007).

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Since the proposal suggests removal of Llano's only existing local station, Maxagrid also proposes allotment of Channel 242A to Llano as a "replacement". In its Comments filed in response to the Further Notice, Maxagrid reaffirmed its earlier Comments filed in response to the Marble Falls proposal referenced in the original Notice and suggested that removal of the C3 channel from Llano to Marble Falls and replacement of the existing C3 service at Llano with a new Class A allocation would be in the "public interest".

We respectfully disagree and suggest that although such a change might be in Maxagrid's interest, for a number of reasons, it does not appear to be beneficial to the public at large and most certainly not to the public at Llano. Moreover, although in its original Comments it made repeated claims of "spectral(sic)-efficiency" (raising for the first time the possibility of a ghosting issue in a radio proceeding), such claims are ill-founded in the abstract and pale by comparison to the Hen-Tic Counterproposal.

The obvious deficiencies of the Maxagrid proposal were set forth in the original Notice and have not been addressed nor mitigated in any way since. The first of these is the proposal to remove Llano's only operating station, as necessary to implement Maxagrid's scheme to place the channel in Marble Falls. The Commission was crystal clear and most specific in its discussion of proposed community changes that it did not consider replacement of an operating station by a proposed new allocation

as an adequate cure to the obvious disruption that it would cause in the original community. Reconsideration of Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094 (1990) at pa.19.

Moreover, in this case, the objectionable deletion of the sole existing local service in Llano is compounded by the fact that the proposed substitute allocation at Llano is not even an equivalent service at all, but is a proposal to "replace" an existing C3 service with a Class A allocation. Clearly, even if the allocation were made, and a new station eventually built, some segment of the Llano population presently receiving local service would see that local service deleted, leaving them with none. Such a result is as incontrovertible as it is unacceptable.

In addition, it must be noted that the sole reason proposed by Maxagrid as justification to make this negative change in Llano is that it is necessary to use the channel as a "first service" for Marble Falls. Yet even by Maxagrid's own recognition (as indicated in its own original Comments that were also incorporated into its most recent Comments), the population of Marble falls is barely 1000 people more than the population of Llano, and Marble Falls already receives primary reception service from no less than 3 existing stations licensed to other communities located within its own county, including two from the County Seat in Burnett City.

The fact is that if the Maxagrid proposal stood alone, with no other proposal to be considered, it would appear to fall far

short of the public interest requirements necessary to justify adoption of the request and all the disruption that would accompany it. Beyond that however, when compared to the Hen-Tic Counterproposal, there is simply no question that the public interest would be best served by adoption of the Hen-Tic proposal, and the comparison is not even close. In contrast to Maxagrid, adoption of the Hen-Tic proposal would not deprive any city of its sole existing transmission service, it would serve spectrum efficiency by removing two existing short-spacings and providing for removal of a third, and by providing for the increased coverage and service that would be received by upgrading an existing short-spaced A channel to a C3 in Missouri City and an existing short-spaced A channel to a C2 in Menard.

In addition, it would provide two first local transmission services, one to Missouri City, the largest (population 36,176) and most significant city in its county, presently with no local transmission service at all, and one to the City of Menard, County Seat of Menard County which has no existing local transmission service not only in the city but in the entire county (compare that to Marble Falls which is not the county seat and which already has 3 local transmission services in its county).

Wherefore, it is respectfully submitted that even taken alone, the deficiencies of the Maxagrid proposal are too severe, especially in their impact upon Llano to be adopted. Further, when compared to the demonstrable public interest benefits of the

Hen-Tic proposal, which also suffers none of the deficiencies that infect the Maxagrid proposal, it is clear that the Hen-Tic proposal is superior in its service to the public interest and should be adopted and that the Maxagrid proposal should be denied.

Respectfully submitted,

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by

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October 8, 1996

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing REPLY COMMENTS have been served by United States mail, postage prepaid this 8th day of October, 1996 upon the following:

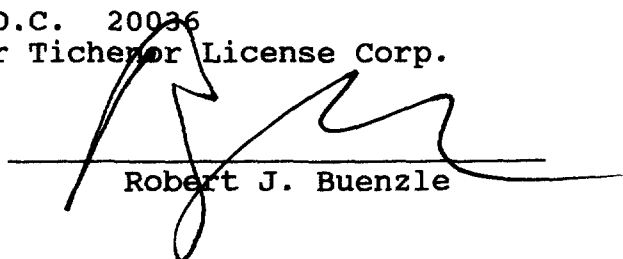
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